

## **Recent Retiree Health Care Legislation Affecting LEOFF Plan 2**

### **Brief Summary**

- Local government employers are not required to provide retired employees with health care insurance.
- Local government employers are required to “document a good faith effort” to provide access to health care insurance. What constitutes a “good faith effort” is not clearly defined and may be unclear to employers.
- The requirements for documenting a “good faith effort” and the required timelines for making a “good faith effort” are not specified and may be unclear to employers.
- Access to health insurance is provided to surviving spouses and dependent children of emergency service personnel killed in the line of duty. All benefit costs are paid by the surviving spouses and dependent children.

### **Background:**

#### **Permitting retired and disabled employees to obtain health insurance. Senate Bill 5777 (2002)**

In 2002 the Legislature enacted legislation requiring political subdivisions to offer PERS covered retirees and disabled employees access to group health insurance coverage. This bill required that PERS covered employees who are retired or disabled from local government, who are not covered by the state Health Care Authority (HCA), to be allowed to continue participation in a health plan of their employer. Prior to this bill, local government employees in PERS not covered by HCA had no right under state law to continue to participate in the insurance plans of their employer after they retire or are disabled.

The bill provided exceptions and certain conditions under which the health care access must be provided. A local government could require a retired or disabled person who requires continued participation in its health plan to pay the full cost of such participation, including any amounts necessary for administration. Other conditions established in the bill included enrollment periods, coordination of benefits with a participant’s other employer-based medical coverage and coverage of dependents if the retired or disabled employee dies.

The legislation took effect on January 1, 2003, but local government employers were allowed up to one year from the effective date to come in compliance. The legislation established a mandate for the local government employers to offer access to health coverage, but did not require health carriers to offer such coverage. Following the passage of the legislation many health carriers declined to offer group policies for public retirees and disabled employees, and local government employers were unable to offer any alternatives to their retirees or disabled employees.

**Providing for individual health insurance for retired and disabled public employees.  
House Bill 2985 (2004)**

In 2004 local government employers requested that the 2002 legislation be repealed due to the inability to comply with the legislation. In collaboration with employee representatives, the employers and bill sponsors agreed to make the requirement for providing retiree health care access conditional upon the employers ability to provide the required access rather than repealing the legislation. The new condition stated that an employer who could not comply with the provisions of the legislation were required to “document a good faith effort” to provide access to a fully insured group health benefit plan.

This bill amended the 2002 legislation so that PERS and LEOFF Plan 2 covered employees who are retired or disabled from local government and who are not covered by the state Health Care Authority (HCA) be allowed to continue participation in a health plan of their employer. However, the bill provided that if a local government employer is unable to offer access to group health insurance for their PERS and LEOFF Plan 2 retirees and disabled employees, despite a “documented good faith effort”, the local government employer’s obligation only extends to assisting the retirees and disabled employees in applying for individual health benefit plans.

Assistance may include developing standardized information on the availability and cost of individual health benefit plans, application packages, and benefit fairs. The Office of the Insurance Commissioner is also required to make available health benefit plan information, including a list of carriers that offer individual coverage, rates and how to apply.

The legislation provided no guidance on what constitutes a documented good faith effort. Moreover, the legislation does not provide any frequency or timeframe requirements for making a good faith effort. Although these issues were discussed in committee, no amendments were made to the bill. Thus it may be unclear to employers what needs to be documented and whether or not they have met their statutory obligation after one attempt to provide access.

**Health care access for survivors of emergency service personnel killed in the line of duty.  
House Bill 1371 (2001)**

This bill requires the Public Employees Benefits Board (PEBB) to provide access to health insurance to surviving spouses and dependent children of emergency service personnel killed in the line of duty on or after January 1, 1998, including those who die as a result of injuries sustained in the course of employment as determined by the Department of Labor and Industries under Title 51 RCW. "Emergency service personnel" means members of the Law Enforcement Officers' and Fire Fighters' Retirement system and members of the Volunteer Fire Fighters' and Reserve Officers' Relief and Pensions system. All benefit costs are paid by the surviving spouses and dependent children.